

Existing law provides that following an arrest if an offender is charged with battery upon a police officer or exposing a police officer to the AIDS virus, the officer may submit to testing designed to determine whether the person is infected with a sexually transmitted disease, acquired immune deficiency syndrome (AIDS), the human immunodeficiency virus (HIV), HIV-1 antibodies, any other probable causative agent of AIDS, or any other infectious disease.

Existing law further provides for the same type of testing of incarcerated inmates who expose law enforcement officers to infectious disease and for certain sex offenders.

New law retains the provisions of existing law and further provides that if a person commits any act which exposes a law enforcement officer to a serious infectious disease by any means resulting in contact with the officer during the course and scope of an arrest for any offense, then the person who may have exposed the officer shall submit to a test within 72 hours of the exposure designed to determine whether that person is infected with a sexually transmitted disease, acquired immune deficiency syndrome (AIDS), the human immunodeficiency virus (HIV), HIV-1 antibodies, any other probable causative agent of AIDS, viral hepatitis, or any other infectious disease.

New law further provides that if a law enforcement officer believes he has been the victim of an act which has exposed him to a serious infectious disease, he shall notify by affidavit, subject to penalty for false swearing, the criminal district court that the exposure has occurred. Provides that the court shall order the testing.

New law further provides that the court shall include in its order the designation of an appropriate facility for the procedure and shall require that the result be reported to the court. The court shall provide the results to the law enforcement officer and the offender and shall provide them to health authorities in accordance with law.

New law further provides that the state shall not use the fact that the medical procedure or test was performed on the alleged offender, or the results thereof, in any criminal proceeding arising out of the alleged offense.

New law further provides that the costs associated with testing shall be paid by the alleged offender.

New law defines a "law enforcement officer" as a commissioned police officer, sheriff, deputy sheriff, marshal, deputy marshal, correctional officer, constable, wildlife enforcement agent, probation and parole officer, or any officer of the court.

New law defines "act" as the spitting, biting, scratching, or throwing of blood or other bodily substances by any means.

New law requires the court to inform the alleged offender about counseling and health services if he tests positive.

Effective August 15, 1999.

(Adds C.Cr.P. Art. 222)